

REMARKS

In the Restriction Requirement mailed July 06, 2007, the Examiner has restricted the claims to one of the following inventions under 35 U.S.C. 121:

- I. Claims 144-164, 199-217, 246 and 249, drawn to a method and server system facilitating placing an order for an item by using a server system and a client system communicating with each other (see independent claims 144 and 199), classified in class 705, subclass 26.
- II. Claims 165-185, 218-236, 247, 250, 252 and 254, drawn to a client system and a method using a client system receiving an order request, automatically determining identity of item, retrieving personal information from a storage device of the user making the request and causing an order to be placed (see independent claims 165, 218, 252, and 254), classified in class 705, subclass 26.
- III. Claims 186-198, 248, 253 and 255 drawn to mere data/information communicated to a client system with intended uses (see independent claims 186, 253 and 255). The limitations referring to mere data do not fall into any statutory classes, that is a process, machine, manufacture, or composition of matter, or any new and useful improvement thereof as identified under 35 USC 101.
- IV. Claims 237-245 and 251, drawn to a server system with the intended use of facilitating placing order comprising a first source to provide first information, second source to provide second information, and a multiplexer to communicate the first and second information (see independent claim 237). classified in class 709. subclass 231.

In response to the Restriction Requirement, Applicants elect Group II. Group II, as stated in the Office action, includes claims 165-185, 218-236, 247, 250, 252, and 254. Claim 254 from

the elected Group II has been cancelled. Elected claims, therefore, include claims 165-185, 218-236, 247, 250 and 252. Additionally, claims 1-164, 186-217, 237-246, 248-249, 251 and 253-255 are hereby cancelled.

Applicants reserve the right to traverse the restriction requirement at a later time.

The Office action states that Applicants are required under 35 U.S.C. 121 to select a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. 35 U.S.C. 121 reads as follows.

35 U.S.C. 121 Divisional applications.

If two or more independent and distinct inventions are claimed in one application, the Director may require the application to be restricted to one of the inventions. If the other invention is made the subject of a divisional application which complies with the requirements of section 120 of this title it shall be entitled to the benefit of the filing date of the original application. A patent issuing on an application with respect to which a requirement for restriction under this section has been made, or on an application filed as a result of such a requirement, shall not be used as a reference either in the Patent and Trademark Office or in the courts against a divisional application or against the original application or any patent issued on either of them, if the divisional application is filed before the issuance of the patent on the other application. If a divisional application is directed solely to subject matter described and claimed in the original application as filed, the Director may dispense with signing and execution by the inventor. The validity of a patent shall not be questioned for failure of the Director to require the application to be restricted to one invention.

It is respectfully submitted that 35 U.S.C. 121 does not include any language suggesting a requirement to preemptively select a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Applicants

RESPONSE TO RESTRICTION REQUIREMENT

Serial Number: 09/903,457

Filing Date: July 10, 2001

Title: APPARATUS FOR TRANSMITTING AND RECEIVING EXECUTABLE APPLICATIONS AS FOR A MULTIMEDIA SYSTEM, AND
METHOD AND SYSTEM TO ORDER AN ITEM USING A DISTRIBUTED COMPUTING SYSTEM

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Dkt: 2050.001US6

submit that if, in the course of the prosecution of the above-identified patent application, another plurality of inventions is identified, Applicants will address any election requirement at that time.

CONCLUSION

The Examiner is invited to telephone Applicants' attorney at 408-278-4052 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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Date 08-06-07

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 6 day of August 2007.

Name

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Signature

[Signature]